

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0051.3/07 4th draft

Deleted: 3rd

ATTY/TYPIST: BP:mos

BRIEF DESCRIPTION: Modifying gas and hazardous liquid pipeline provisions.

Currently, the utilities and transportation commission (UTC) regulates hazardous liquid pipeline safety under RCW 81.88, and gas pipeline safety under RCW 80.28. In order to enforce these pipeline safety statutes and corresponding safety rules, the UTC must be certified by the federal government. There are two purposes of this bill: 1) to conform the state's pipeline safety statutes to federal certification requirements; and 2) to eliminate inconsistencies and obsolete or unused references in the existing statutes. One impact of the bill is that pipeline safety regulation is consolidated into one chapter: RCW 81.88.

AN ACT Relating to regulation of gas and hazardous liquid pipelines; amending RCW 81.88.010, 81.88.040, 81.88.050, 81.88.060, 81.88.080, 81.88.090, 81.88.100, 19.122.020, 19.122.035, and 81.04.490; and repealing RCW 80.28.205, 80.28.207, 80.28.210, 80.28.212, 80.28.215, 81.88.110, and 81.88.150.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 81.88.010 and 2001 c 238 s 6 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the utilities and transportation commission.

(2) (~~"Failsafe" means a design feature that will maintain or result in a safe condition in the event of malfunction or failure of a power supply, component, or control device.~~

The term "failsafe" in current .010(2) is deleted because that term is not used in the chapter.

corrosive gas.

((+4)) (3) "Gas pipeline" means all parts of a pipeline facility through which gas moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, ~~((pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. "Gas pipeline" does not include process or transfer pipelines))~~ compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies. "Gas pipeline" does not include any gas pipeline facilities, other than a master meter system, owned by a consumer or consumers of the gas, and located exclusively on the consumer or consumers' property where the gas will be consumed and none of the gas leaves that property through a pipeline.

The term "gas pipeline" is changed to conform to the federal definition. Excluded from gas pipeline definition are customer-owned pipeline facilities, located exclusively on customer property. Other changes were made for clarity.

Deleted: :¶
(a) Any

Deleted: customer of a public service company subject to commission rate regulation under Title 80 RCW, when such customer-owned facilities are located on the customer side of the meter used to determine billable consumption;¶
(b) That portion of pipeline facilities that are: (i) Directly connected to an interstate gas pipeline; (ii) owned by a

Deleted: ;

Deleted: (iii)

Formatted: hyphen

Deleted: constructing,

Deleted: ,

((+5)) (4) "Gas pipeline company" means a person or entity transporting gas by pipeline, or owning, or operating a gas pipeline for transporting gas. ((A)) "Gas pipeline company" includes a master meter system. "Gas pipeline company" does not include ~~((a) Distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail; or (b) excavation contractors or other contractors that contract with a gas pipeline company.~~ However, a gas pipeline company is responsible for the conduct of its contractors regarding compliance with pipeline safety requirements.

Formatted: Not Strikethrough

Deleted:)) a person who does not own a pipeline and does not routinely operate, construct, or maintain a pipeline, such as a consultant or excavator.

The term "gas pipeline company" defines the entities subject to UTC gas pipeline safety jurisdiction. Three changes are made. 1) The definition of "gas pipeline company" is clarified to include master meter systems. "Master meter system" is defined in new Section (10). 2) The federal gas pipeline statute applies to persons "transporting" gas or hazardous liquid by pipeline, and persons "owning or operating" such pipelines. 49 USC §§ 60118 and 60102(a)(1)(A). Consequently, the term "constructing" is removed, and the phrase "transporting gas by pipeline" is added. The WUTC still regulates construction standards for pipelines. 3) The language excluding contractors is retained, but clarifying language is added to confirm that a pipeline is responsible for the acts of its contractors, as it relates to meeting pipeline safety requirements.

((+6)) (5) "Hazardous liquid" means: (a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R.

Part 195 (~~(in effect March 1, 1998)~~); and (b) carbon dioxide.

The term "hazardous liquid" is amended to remove the unnecessary reference to the date of the CFR.

~~((7))~~ (6) "Hazardous liquid pipeline" means all parts of a pipeline facility through which a hazardous liquid moves in transportation including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.

The term "hazardous liquid pipeline" is changed to conform to the federal Definition, contained in 49 C.F.R. § 195.2

(7) "Hazardous liquid pipeline company" means a person or entity ~~transporting hazardous liquid by pipeline or owning, or operating a pipeline for transporting hazardous liquid. "Hazardous liquid pipeline company" does not include excavation contractors or other contractors that contract with a hazardous liquid pipeline company. However, a hazardous liquid pipeline company is responsible for the conduct of its contractors regarding compliance with pipeline safety requirements.~~

Deleted: constructing,

Deleted: .

Deleted: A "hazardous liquid pipeline company" does not include a person who does not own a pipeline and does not routinely operate, construct, or maintain a pipeline, such as a consultant or excavator.

Formatted: No underline

There are two proposed changes from the prior bill draft. The first change is to set forth separate definitions for "hazardous liquid pipeline company" and "gas pipeline company" (see .010(4) above). Second, the language excluding contractors is retained, but clarifying language is added to confirm that a pipeline is responsible for the acts of its contractors, as it relates to meeting pipeline safety requirements.

(8) "Line pipe" means a tube, usually cylindrical, through which a hazardous liquid or gas is transported from one point to another.

The term "line pipe" is proposed to be used in RCW 81.88.060, so a definition is necessary.

(9) "Local government" means a political subdivision of the state or a city or town.

~~((8))~~ (10) "Master meter system" means a pipeline system for distributing gas within, but not limited to, a definable area, such as

a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by any other means, such as by rents. "Master meter system" includes a gas pipeline company.

This is the federal definition of "master meter." 49 C.F.R. § 191.3. While this definition is too limited ("resale" is not a reliable indicator of whether a small gas pipeline system poses a safety risk) a change in this definition is not being proposed at this time. However, by moving the UTC's gas pipeline safety authority into RCW 81.88, this will mean that both privately-owned and publicly-owned master meter systems will be subject to UTC pipeline safety regulation. See definition of "person" in .010(8). The UTC is currently conducting a study to determine what sorts of small gas pipelines should be regulated as to safety, and the type of safety regulation that is appropriate.

(11) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a town, a county, or any political subdivision or instrumentality of a state, and its employees, agents, or legal representatives.

These amendments are intended to move pipeline safety regulation from RCW 80.28 to RCW 81.88. Under the definitions in RCW 80.04.010 (which apply to RCW 80.28), the term "gas company" includes a "city or town." Since .010(11) already contains the word "city," the word "town" is added.

~~((9) "Pipeline," "pipeline system," or "hazardous liquid pipeline" means all parts of a pipeline facility through which a hazardous liquid moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. "Pipeline" or "pipeline system" does not include process or transfer pipelines.~~

These terms currently apply only to hazardous liquid pipelines. The language is therefore moved to .010(6), which is the definition of "hazardous liquid pipelines." The exclusion for "process or transfer pipelines" is removed. The term "process pipeline" is not defined, and it is not clear what this type of pipeline is, and why it should be exempt from pipeline safety regulation. "Transfer pipeline" is defined in .010(13), but state safety regulation of that type of pipeline is preempted. 49 C.F.R. § 195.1(b)(3)(ii) & (iii). Consequently, neither term needs to be used in the statute.

~~— (10) "Pipeline company" or "hazardous liquid pipeline company" means a person or entity constructing, owning, or operating a pipeline for transporting hazardous liquid. A "pipeline company" does not include: (a) Distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail; or (b) excavation contractors or other contractors that contract with a pipeline company.~~

~~— (11) "Reportable release" means a spilling, leaking, pouring, emitting, discharging, or any other uncontrolled escape of a hazardous liquid in excess of one barrel, or forty two gallons.))~~

The definition of "reportable release" has been removed because the definition has become more stringent and more detailed under federal rules. The last bill draft contained a definition of "uncontrolled escape of gas." That definition has been removed from this draft because it was vague, and because this is a matter that can better be addressed in rulemaking.

(12) "Pipeline company," without further qualification, means a hazardous liquid pipeline company or a gas pipeline company.

In the existing statute, the term "pipeline company" applies only to hazardous liquid pipelines. With the addition of gas pipeline safety regulation, the term "pipeline company" needs to be more inclusive.

~~— (12) "Safety management systems" means management systems that include coordinated and interdisciplinary evaluations of the effect of significant changes to a pipeline system before such changes are implemented.~~

The term "safety management system" is deleted because that term is not used in the chapter.

~~— (13) "Transfer pipeline" means a buried or aboveground pipeline used to carry oil between a tank vessel or transmission pipeline and the first valve inside secondary containment at the facility provided that any discharge on the facility side of that first valve will not directly impact waters of the state. A transfer pipeline includes valves, and other appurtenances connected to the pipeline, pumping units, and fabricated assemblies associated with pumping units. A transfer pipeline does not include process pipelines, pipelines carrying ballast or bilge water, transmission pipelines, or tank~~

Deleted: ++

Deleted: +)) (12) "Pipeline company," without further qualification, means a hazardous liquid pipeline company or a gas pipeline company.¶
(13)

Formatted: Not Strikethrough

Formatted: No underline, Strikethrough

Formatted: Strikethrough

Deleted: , for hazardous liquid pipelines,

Formatted: Strikethrough

Deleted: ((

~~vessel or storage tanks.~~

The term "transfer pipeline" is deleted because state pipeline safety regulation of such pipelines is preempted. 49 C.F.R. § 195.1(b)(3)(ii) & (iii). However, that term is used in RCW 19.122.035, and it refers to this section for its definition. Consequently, this bill adds this definition of "transfer pipeline" to RCW 19.122. See Section 9(20) (RCW 19.122.020(20)) below.

~~(14) "Transmission pipeline" means a gas pipeline that transports gas within a storage field, or transports gas from an interstate pipeline or storage facility to a distribution main or a large volume gas user, or operates at a hoop stress of twenty percent or more of the specified minimum yield strength).~~

The term "transmission pipeline" is deleted because that term is not used in the chapter.

Deleted: consistent with the criteria of a reportable accident under federal hazardous liquid safety rules.

Formatted: hyphen

Sec. 2. RCW 81.88.040 and 2000 c 191 s 3 are each amended to read as follows:

(1) A person, officer, agent, or employee of a pipeline company who, as an individual or acting as an officer, agent, or employee of such a company, violates or fails to comply with this chapter or a rule adopted under ~~((this section))~~ Section 4 or Section 5 of this chapter, or who procures, aids, or abets another person or entity in the violation of or noncompliance with this ~~((section))~~ chapter or a rule adopted under ~~((this section))~~ Section 4 or Section 5 of this chapter, is guilty of a gross misdemeanor.

Deleted: this

Formatted: Underline

Deleted: this

(2)(a) A pipeline company, or any person, officer, agent, or employee of a pipeline company that violates a provision of this ~~((section))~~ chapter, or a rule adopted under ~~((this section))~~ Section 4 or Section 5 of this chapter, is subject to a civil penalty to be assessed by the commission.

Deleted: this

Deleted:

The current statute creates a penalty for a violation of the chapter, or a rule adopted under "this section." The quoted language has little or no meaning, because the rules described in "this section" (RCW 81.88.040) refer only to rules setting penalty amounts (RCW 81.88.040(2)(b)) or identifying hazardous substances (RCW 81.88.040(3)). Consequently, the reference to "this section" is changed to refer to the sections of the statute under which the WUTC adopts substantive pipeline safety rules.

(b) The commission shall adopt rules: (i) Setting penalty amounts, but may not exceed the penalties specified in the federal

pipeline safety laws, 49 U.S.C. Sec. 60101 et seq.; and (ii) establishing procedures for mitigating penalties assessed.

By making this section apply to gas and liquid pipelines, the commission will be able to maintain its state certification under 49 U.S.C. § 60105(b)(7), by ensuring that penalties for violations of state pipeline safety rules are consistent with penalties for violations of federal pipeline safety rules. Currently, there are three levels of pipeline safety penalties that can be applied by the UTC, but only one of them conforms to federal law.

(c) In determining the amount of the penalty in a particular instance, the commission shall consider: (i) The appropriateness of the penalty in relation to the position of the person charged with the violation; (ii) the gravity of the violation; and (iii) the good faith of the person or company charged in attempting to achieve compliance after notification of the violation.

(d) The amount of the penalty may be recovered in a civil action in the superior court of Thurston county or of some other county in which the violator may do business. In all actions for recovery, the rules of evidence shall be the same as in ordinary civil actions. All penalties recovered under this section must be paid into the state treasury and credited to the ((~~hazardous liquid~~)) pipeline safety account.

The hazardous liquid pipeline safety account was renamed in 2001, but this reference was not corrected at that time. This amendment states the correct account name.

(3) The commission shall adopt rules incorporating by reference other substances designated as hazardous by the secretary of transportation under 49 U.S.C. Sec. 60101(a)(4).

(4) The commission ((~~shall also have the power of~~)) may seek injunctive relief, as required by 49 U.S.C. Sec. 60105(b), to enforce the provisions of this chapter.

This change clarifies that the commission can seek injunctive relief, which is a requirement for state certification under 49 U.S.C. § 60105(b)(7).

(5) Nothing in this section duplicates the authority of the energy facility site evaluation council under chapter 80.50 RCW.

Sec. 3. RCW 81.88.050 and 2001 c 238 s 7 are each amended to read as follows:

((~~1~~)) The pipeline safety account is created in the custody of

the state treasurer. All fees received by the commission for the pipeline safety program according to RCW 80.24.060 and 81.24.090 and all receipts from the federal office of pipeline safety and any other state or federal funds provided for pipeline safety shall be deposited in the account(~~((, except as provided in subsection (2) of this section))~~). Any ~~((fines))~~ penalties collected under this chapter, or otherwise designated to this account must be deposited in the account.

Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for funding pipeline safety.

~~((2) Federal funds received before June 30, 2001, shall be treated as receipt of unanticipated funds and expended, without appropriation, for the designated purposes.))~~

Currently, penalties paid by hazardous liquid pipelines go into this fund (pipeline safety account), while penalties paid by gas pipelines go into the public service revolving fund. By consolidating pipeline safety activities for gas and hazardous liquid pipelines in RCW 81.88, all penalty dollars assessed by the UTC for the pipeline safety violations will go into the pipeline safety fund. The legislature would still need to provide budget authority before the UTC could expend funds in this account.

Sec. 4. RCW 81.88.060 and 2001 c 238 s 9 are each amended to read as follows:

(1) A comprehensive program of hazardous liquid pipeline safety is authorized by RCW ~~((81.88.010,))~~ 81.88.040, 81.88.050, 81.88.080, 81.88.090, 81.88.100, ~~((48.48.160))~~ 43.44.130, and this section to be developed and implemented consistent with federal law. The commission shall administer and enforce all laws related to hazardous liquid pipeline safety.

(2) The commission shall adopt hazardous liquid pipeline rules that are at a minimum, consistent with federal requirements, and that require hazardous liquid pipeline companies to design, construct, operate, and maintain their pipeline facilities so they are safe and efficient;

~~((2) The commission shall adopt rules for pipeline safety standards for hazardous liquid pipeline transportation that:~~

~~(a) Require pipeline companies to design, construct, operate, and maintain their pipeline facilities so they are safe and efficient;~~

~~(b) Require pipeline companies to rapidly locate and isolate all reportable releases from pipelines, that may include:~~

~~(i) Installation of remote control shut-off valves; and~~

Deleted: and gas

Deleted: and gas

Deleted: (2) The commission shall adopt rules for pipeline safety standards for hazardous liquid and gas pipeline transportation that:

Formatted: Strikethrough

Deleted: ((

Deleted:)) promptly

Formatted: Strikethrough

Deleted: hazardous liquid

Formatted: No underline, Strikethrough

Deleted: and uncontrolled escapes from gas pipelines((

Formatted: Not Strikethrough

~~— (ii) Installation of remotely monitored pressure gauges and meters;~~

~~— (c) Require the training and certification of personnel who operate pipelines and the associated systems;~~

~~— (d) Require reporting of emergency situations, including emergency shutdowns and material defects or physical damage that impair the serviceability of a pipeline; and~~

~~— (e) Require pipeline companies to submit operations safety plans to the commission once every five years, as well as any amendments to the plan made necessary by changes to the pipeline system or its operation. The safety plan shall include emergency response procedures.~~

~~— (3) The commission shall approve operations safety plans if they have been deemed fit for service. A plan shall be deemed fit for service when it provides for pipelines that are designed, developed, constructed, operated, and periodically modified to provide for protection of public safety and the environment. Pipeline operations safety plans shall, at a minimum, include:~~

~~— (a) A schedule of inspection and testing within the pipeline distribution system of:~~

~~— (i) All mechanical components;~~

~~— (ii) All electronic components; and~~

~~— (iii) The structural integrity of all pipelines as determined through pressure testing, internal inspection tool surveys, or another appropriate technique;~~

~~— (b) Failsafe systems;~~

~~— (c) Safety management systems; and~~

~~— (d) Emergency management training for pipeline operators);~~

~~((4)) (3) The commission shall coordinate information related to pipeline safety by providing technical assistance to local planning and siting authorities.~~

~~((5)) (4) The commission shall evaluate, and consider adopting, proposals developed by the federal office of pipeline safety, the national transportation safety board, and other agencies and organizations related to methods and technologies for ((testing)) ensuring the integrity of pipeline ((structure, leak detection,)) systems and other elements of pipeline operation.~~

Deleted: (c) Require pipeline companies to report to the commission and promptly investigate all reportable releases and uncontrolled escapes of gas, take the actions necessary to correct the cause of each release or escape, and ensure that similar circumstances across their pipeline system are addressed in a timely manner; and
(d) Require pipeline companies to operate their system in a manner that is, at a minimum, consistent with state and federal regulations and generally accepted industry practices.

These proposed amendments simplify .060. A change from the last bill draft is that this section now only applies to hazardous liquid pipeline companies. A separate section with similar wording is added for gas pipelines. See new Section 5 below. Separate sections make clear that the gas pipeline safety program and the hazardous liquid pipeline safety programs are separate.

NEW SECTION Sec. 5. (1) A comprehensive program of gas pipeline safety is authorized by RCW 81.88.040, 81.88.050, 81.88.080, 81.88.100, 43.44.130, and this section to be developed and implemented consistent with federal law. The commission shall administer and enforce all laws related to gas pipeline safety.

(2) The commission shall adopt gas pipeline safety rules that are, at a minimum, consistent with federal requirements, and that require gas pipeline companies to design, construct, operate and maintain their pipeline facilities so they are safe and efficient.

(3) The commission shall evaluate, and consider adopting, proposals developed by the federal office of pipeline safety, the national transportation safety board, and other agencies and organizations related to methods and technologies for ensuring the integrity of pipeline systems and other elements of pipeline operation.

This is a new section which applies only to gas pipelines. It parallels Section 4 (RCW 81.88.060). The difference between this section and RCW 81.88.060 (other than this section applies to gas pipeline companies), is the elimination of the language directing the commission to provide technical assistance to local planning and siting authorities. The directive in RCW 81.88.060(4) is sufficient, and therefore it need not be repeated in this section.

Sec. 6. RCW 81.88.080 and 2000 c 191 s 7 are each amended to read as follows:

(1) The commission shall require hazardous liquid pipeline companies, and gas pipeline companies with interstate pipelines, (~~(gas transmission pipelines,)~~) or gas pipelines operating over two hundred fifty pounds per square inch gauge, to provide accurate maps of their pipeline to specifications developed by the commission sufficient to meet the needs of first responders (~~((including installation depth information when known))~~).

(2) The commission shall evaluate the sufficiency of the maps and consolidate the maps into a statewide geographic information system. The commission shall assist local governments in obtaining hazardous liquid and gas pipeline location information and maps. The maps shall be made available to the one-number locator services as provided in

Deleted: .

Formatted: BegSec-Amd

Deleted: <#>

chapter 19.122 RCW. The mapping system shall be consistent with the United States department of transportation national pipeline mapping program.

(3) The mapping system shall be ~~((completed by January 1, 2006, and))~~ periodically updated ~~((thereafter. The commission shall develop a plan for funding the geographic information system and report its recommendations to the legislature by December 15, 2000))~~.

There are three proposed amendments: 1) the reference to "gas transmission pipelines" is eliminated because the reference to pipelines operating at more than 250 pounds per square inch gauge is sufficient. 2) also eliminated is the requirement for the commission to provide pipeline installation depth information. This information can be misleading because the depth at which a pipeline is installed may not reflect its current depth. This can confuse first responders in the case of an emergency. 3) outdated language is removed.

Sec. 7. RCW 81.88.090 and 2001 c 238 s 10 are each amended to read as follows:

Deleted: <#>

~~((1))~~ The commission shall ~~((apply for))~~ maintain federal ~~((delegation))~~ certification for the state's pipeline safety program ~~((for the purposes of enforcement of federal hazardous liquid pipeline safety requirements. If the secretary of transportation delegates inspection authority to the state as provided in this subsection,))~~. The commission, at a minimum, shall do the following:

~~((a))~~ (1) Inspect hazardous liquid pipelines and gas pipelines periodically as specified in the inspection program;

~~((b))~~ (2) Collect fees;

~~((c))~~ (3) Order and oversee the testing of hazardous liquid pipelines and gas pipelines as authorized by federal law and regulation; and

~~((d))~~ (4) File reports with the United States secretary of transportation as required to maintain ~~((the delegated authority.~~

~~((2) The commission shall also seek federal authority to adopt safety standards related to the monitoring and testing of interstate hazardous liquid pipelines.~~

~~((3) Upon delegation under subsection (1) of this section or under a grant of authority under subsection (2) of this section, to the extent authorized by federal law, the commission shall adopt rules for interstate pipelines that are no less stringent than the state's laws and rules for intrastate hazardous liquid pipelines))~~ federal certification.

The UTC's pipeline safety program must be certified by the federal government in order for the UTC to enforce the state's pipeline safety requirements as to intrastate pipelines, and to inspect interstate pipelines as an agent of the federal government (interstate pipeline enforcement remains with the federal Department of Transportation). RCW 81.88.090 is amended to reflect the current status of the UTC's intrastate pipeline safety program. The UTC may adopt, and has adopted rules that are more stringent than the minimum federal requirements. The UTC will continue to adopt such rules as necessary.

Sec. 8. RCW 81.88.100 and 2000 c 191 s 11 are each amended to read as follows:

The commission may inspect any record, map, or written procedure required by federal law to be kept by a ((~~hazardous liquid~~)) pipeline company concerning ((~~the~~)) ~~reportable~~ releases, and the design, construction, testing, or operation and maintenance of ((~~hazardous liquid~~)) pipelines. Nothing in this section affects the commission's access to records under this title.

Deleted: and uncontrolled escapes of gas

This section permits the Commission to review pipeline records relating to significant events that occur on the pipeline. The terms "reportable release," and "uncontrolled escape of gas," have been removed, so the generic term "release" is used here.

The last sentence of .100 clarifies that this section does not define the limit of the UTC's authority to access pipeline records. For example, the UTC has both safety and economic regulatory authority over pipelines that are public service companies. These include local gas distribution companies such as Puget Sound Energy and Cascade Natural Gas Company. These also include Olympic Pipeline, which transports petroleum products. The UTC has separate, additional legal authority over such companies regarding access to company records. See, e.g., RCW 80.04.090.

Sec. 9. RCW 19.122.020 and 2005 c 448 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Damage" includes the substantial weakening of structural or lateral support of an underground facility, penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected utility owner determines that repairs are required.

(3) "Emergency" means any condition constituting a clear and present danger to life or property, or a customer service outage.

(4) "Excavation" means any operation in which earth, rock, or

other material on or below the ground is moved or otherwise displaced by any means, except the tilling of soil less than twelve inches in depth for agricultural purposes, or road and ditch maintenance that does not change the original road grade or ditch flowline.

(5) "Excavation confirmation code" means a code or ticket issued by the one-number locator service for the site where an excavation is planned. The code must be accompanied by the date and time it was issued.

(6) "Excavator" means any person who engages directly in excavation.

(7) "Gas" means natural gas, flammable gas, or toxic or corrosive gas.

(8) "Hazardous liquid" means: (a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 as in effect on March 1, 1998; and (b) carbon dioxide. The utilities and transportation commission may by rule incorporate by reference other substances designated as hazardous by the secretary of transportation.

(9) "Identified facility" means any underground facility which is indicated in the project plans as being located within the area of proposed excavation.

(10) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.

(11) "Locatable underground facility" means an underground facility which can be field-marked with reasonable accuracy.

(12) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type of the underground facility.

(13) "Notice" or "notify" means contact in person or by telephone or other electronic methods that results in the receipt of a valid excavation confirmation code.

(14) "One-number locator service" means a service through which a person can notify utilities and request field-marking of underground facilities.

(15) "Operator" means the individual conducting the excavation.

(16) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of a state, and its employees, agents, or legal representatives.

(17) "Pipeline" or "pipeline system" means all or parts of a pipeline facility through which hazardous liquid or gas moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping or compressor units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. "Pipeline" or "pipeline system" does not include process or transfer pipelines (~~(as defined in RCW 81.88.010)~~).

The reference to "transfer pipelines as defined in RCW 81.88.010" is removed because the definition of the term "transfer pipeline" has been moved from RCW 81.88.020(14) to RCW 19.122.020(20) below.

(18) "Pipeline company" means a person or entity constructing, owning, or operating a pipeline for transporting hazardous liquid or gas. A pipeline company does not include: (a) Distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail; or (b) excavation contractors or other contractors that contract with a pipeline company.

(19) "Reasonable accuracy" means location within twenty-four inches of the outside dimensions of both sides of an underground facility.

(20) "Transfer pipeline" means a buried or aboveground pipeline used to carry oil between a tank vessel or transmission pipeline and the first valve inside secondary containment at the facility provided that any discharge on the facility side of that first valve will not directly impact waters of the state. A transfer pipeline includes valves, and other appurtenances connected to the pipeline, pumping units, and fabricated assemblies associated with pumping units. A transfer pipeline does not include process pipelines, pipelines carrying ballast or bilge water, transmission pipelines, or tank vessel or storage tanks.

(21) "Transmission pipeline" means a pipeline that transports hazardous liquid or gas within a storage field, or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or

gas user, or operates at a hoop stress of twenty percent or more of the specified minimum yield strength.

~~((21))~~ (22) "Underground facility" means any item buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including but not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground. This definition does not include pipelines as defined in subsection (17) of this section, but does include distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail.

Sec. 11. RCW 81.04.490 and 1961 c 14 s 81.04.490 are each amended to read as follows:

Nothing in this title shall authorize the commission to make or enforce any order affecting rates, tolls, rentals, contracts or charges or service rendered, or the safety, adequacy or sufficiency of the facilities, equipment, instrumentalities or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied or in force affecting any street railroad owned and operated by any city or town, but all other provisions enumerated herein shall apply to public utilities owned by any city or town. The commission shall regulate the safety of all hazardous liquid and gas pipelines constructed, owned, or operated by any city or town under chapter 81.88 RCW.

RCW 80.04.490 generally precludes UTC regulation of utility services provided by cities or towns, except for safety regulation of "gas plant" owned and operated by a city or town. Because gas pipeline safety is moved from Title 80 to Title 81, this amendment clarifies that when a city or town that owns or operates a gas pipeline or hazardous liquid pipeline, the commission is empowered to regulate the safety of that pipeline. The UTC is not aware of any city or town operating a hazardous liquid pipeline. Three cities operate gas pipelines.

NEW SECTION. Sec. 12. The following acts or parts of acts are each repealed:

(1) RCW 80.28.205 (Enforcement of federal laws covering gas pipeline safety--Request for federal delegation of authority) and 2000 c 191 s 10;

(2) RCW 80.28.207 (Commission inspection of records, maps, or

Deleted: <#> RCW 19.122.035 and 2000 c 191 s 19 are each amended to read as follows:¶
(1) After ((a pipeline company has been notified by)) an excavator notifies a pipeline company pursuant to RCW 19.122.033 that excavation work will uncover any portion of ((the)) a transmission pipeline, the owner of that pipeline ((company)) shall ensure that the owner's representative consults with the excavator on-site prior to the excavation and that the pipeline section in the vicinity of the excavation is examined for damage prior to being reburied.¶
(2) Immediately upon receiving information of third-party damage to a hazardous liquid pipeline, the company that operates the pipeline shall terminate the flow of hazardous liquid in that pipeline until it has visually inspected the pipeline. After visual inspection, the operator of the hazardous liquid pipeline shall determine whether the damaged pipeline section should be replaced or repaired, or whether it is safe to resume pipeline operation. Immediately upon receiving information of third-party damage to a gas pipeline, the company that operates the pipeline shall conduct a visual inspection of the pipeline to determine whether the flow of gas through that pipeline should be terminated, and whether the damaged pipeline should be replaced or repaired. A record of the pipeline company's inspection report and test results shall be provided to the utilities and transportation commission consistent with federal reporting requirements ((under 49 C.F.R. 195 Subpart B)).¶
(3) Pipeline companies shall immediately notify local first responders and the department of any reportable release of a hazardous liquid from a pipeline. Pipeline companies shall immediately notify local first responders and the commission of any blowing gas leak from a gas pipeline that has ignited or represents a probable hazard to persons or property. Pipeline companies shall take all appropriate steps to ensure the public safety in the event of a release of hazardous liquid or gas under this subsection.¶
(4) No damaged pipeline may be buried until it is ... [1]

Deleted: , except that

Deleted: t

Deleted: <#>

written procedures) and 2000 c 191 s 12;

(3) RCW 80.28.210 (Safety rules--Pipeline transporters--Penalty) and 2003 c 53 s 384, 1969 ex.s. c 210 s 2, & 1961 c 14 s 80.28.210;

(4) RCW 80.28.212 (Safety rules--Civil penalty for violation of RCW 80.28.210 or regulations issued thereunder--Level of penalty--Compromise--Disposition of penalty) and 1995 c 247 s 1 & 1969 ex.s. c 210 s 3;

(5) RCW 80.28.215 (Gas pipeline company duties after notice of excavation) and 2000 c 191 s 22; and

(6) RCW 81.88.150 (Review of hazardous liquid and gas pipeline safety programs) and 2001 c 238 s 4.

Deleted: ¶

<#> RCW 81.88.110
(Pipeline company duties
after notice of excavation)
and 2000 c 191 s 21;

Formatted: Bullets and Numbering

Deleted: ¶

Deleted: ¶

Amendments to RCW 19.122.035 are removed. This draft continues to repeal RCW 80.28.215 which calls on pipeline companies to provide prior consultation before digging near transmission lines. This issue is better addressed through a rulemaking, which would thoroughly examine the benefits of prior consultation, and could determine whether operating pressure or some other criterion should be the trigger for the consultation process.

RCW 19.122.035 and 2000 c 191 s 19 are each amended to read as follows:

(1) After ~~((a pipeline company has been notified by))~~ an excavator notifies a pipeline company pursuant to RCW 19.122.033 that excavation work will uncover any portion of ~~((the))~~ a transmission pipeline, the owner of that pipeline ~~((company))~~ shall ensure that the owner's representative consults with the excavator on-site prior to the excavation and that the pipeline section in the vicinity of the excavation is examined for damage prior to being reburied.

(2) Immediately upon receiving information of third-party damage to a hazardous liquid pipeline, the company that operates the pipeline shall terminate the flow of hazardous liquid in that pipeline until it has visually inspected the pipeline. After visual inspection, the operator of the hazardous liquid pipeline shall determine whether the damaged pipeline section should be replaced or repaired, or whether it is safe to resume pipeline operation. Immediately upon receiving information of third-party damage to a gas pipeline, the company that operates the pipeline shall conduct a visual inspection of the pipeline to determine whether the flow of gas through that pipeline should be terminated, and whether the damaged pipeline should be replaced or repaired. A record of the pipeline company's inspection report and test results shall be provided to the utilities and transportation commission consistent with federal reporting requirements ~~((under 49 C.F.R. 195 Subpart B))~~.

(3) Pipeline companies shall immediately notify local first responders and the department of any reportable release of a hazardous liquid from a pipeline. Pipeline companies shall immediately notify local first responders and the commission of any blowing gas leak from a gas pipeline that has ignited or represents a probable hazard to persons or property. Pipeline companies shall take all appropriate

steps to ensure the public safety in the event of a release of hazardous liquid or gas under this subsection.

(4) No damaged pipeline may be buried until it is repaired or relocated. The pipeline company shall arrange for repairs or relocation of a damaged pipeline as soon as is practical or may permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

Sec.